HONOURABLE SMT. JUSTICE T. MEENA KUMARI

&

HONOURABLE JUSTICE P. LAKSHMANA REDDY

WRIT PETITION NO. 20551 of 2005

Dated 29th September, 2005

Between:

Dr. Indira Doraiswamy, daughter of late M. Doraiswamy, aged about 61 years, Retd., Civil Assistant Surgeon, D.No.1-8-113, Chikadpally, Hyderabad.

……..Petitioner.

And :

1. The Government of Andhra Pradesh, represented by its Secretary, Medical & Health Department, Secretariat Building, Hyderabad and others.

..Respondents.

ORDER: (Per the Honourable Smt. Justice T.Meena Kumari)

This writ petition is filed by the writ petitioner aggrieved by the order passed in O.A. No. 4137 of 2003, on 07-06-2005, under which the Tribunal dismissed the O.A. with some observations as mentioned therein.

The writ petitioner is the applicant in O.A.No.4137 of 2003. She filed the said O.A. under section 19 of the Administrative Tribunals Act, 1985 seeking to call for the records relating to the impugned Memo No.9994/B2/2000-16 dated 23.9.2002 passed by the 1st respondent and seeking to set aside the same and consequently seeking a direction to the respondents to pay arrears of salary and arrears of retirement benefits basing on her original date of birth i.e., 06.12.1944. The Tribunal, after going into the merits of the case, having observed that the respondents are perfectly justified in rejecting the claim of the applicant for correction of the date of birth as not feasible and comprehensive rules with regard to the recording of the alteration of the date of birth have been made by the Government only with a view to curb the fanciful and repeated representations and further having observed that the applicant represented the matter thrice and the same were rejected and thus the

action of the respondents cannot be found fault with and is perfectly in accordance with rules, dismissed the O.A. Aggrieved by the same, the present writ petition has been filed by the applicant.

Heard the learned counsel on either side.

It is contended by the learned counsel for the applicant that the date of birth as evidenced in HSC record shall be the basis for entry in the service record and the respondents have not reflected the correct date of birth in all other service records like, seniority list, orders of regularization and therefore, there is a bona fide clerical error and the Government is bound to correct her date of birth and therefore, the order impugned is liable to be set aside.

On the other hand, it is contended by the learned Government Pleader for Medical, Health and Family Welfare that as per entry in service record at page No.9, the date of birth of the applicant is recorded as 06-12-1941 and accordingly, she was retired with effect from 31-12-1999 on attaining the age of superannuation. Thereafter, on a representation made by her to the Government in this regard, the Government in turn has rejected the same. Again another representation made by her to the 2nd respondent was forwarded to the Government and the same was also rejected. Suppressing all these facts, she filed O.A. No. 11289 of 2002 and the same was disposed of directing the respondents to consider her representation and that the Government in turn considered her case in detail to the effect that the correct of date of birth is not feasible under the rules and thereby, rejected the same. Therefore, the order impugned does not warrant any interference by this Court and the writ petition is liable to be dismissed.

We have perused the material available on record and the order impugned.

As could be seen from the material paper i.e., the Higher Secondary School Record of the applicant, it clearly goes to show that the date of birth of the applicant is 06-12-1944 whereas the entry in Service Register was made as 06-12-1941 instead of 06-12-1944. As a consequence of which, the applicant was asked to retire on 31-12-1999 on attaining the age of superannuation as per service records and thereby she was retired from service on 31-12-1999 instead of retiring on 31-12-2002. In view of the fact that the basis for assessing the date of birth is the H.S.C. or the P.U.C. or the S.S.C. or the S.S.L.C.certificate and since the respondents have failed to clarify as to the entering of date of birth as 6.12.1941 by showing the basis on which the same has been entered, We feel that there is bonafide clerical mistake committed by the respondents while entering the date of birth in the Service Register of the applicant as 6.12.1941 instead of the date of birth as mentioned in H.S.C. certificate of the applicant i.e., 6.12.1944. Therefore, We feel that the action of the respondents in asking the applicant to retire on 31-12-1999 basing on a baseless entry in the Service Register, is not justified and therefore, the order of the Tribunal suffers from material irregularity and thereby, the same is liable

to be set aside.

Under the above circumstances, the writ petition is allowed setting aside the order impugned. No costs.

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Justice T. Meena Kumari

Date : 29th September, 2005.

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Justice P. Lakshmana Reddy

Dvs/Gurc.

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WRIT PETITION NO. 20551 of 2005

(Order delivered by the Honourable Smt. Justice T. Meena Kumari)

Dated 29th September, 2005